

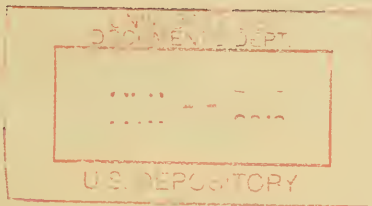
NATIONAL RECOVERY ADMINISTRATION

AMENDMENT TO
CODE OF FAIR COMPETITION

FOR THE

COTTON TEXTILE INDUSTRY

AS APPROVED ON JULY 17, 1934



UNITED STATES
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Approved Code No. 1—Amendment No. 8

AMENDMENT TO CODE OF FAIR COMPETITION

FOR THE

COTTON TEXTILE INDUSTRY

As Approved on July 17, 1934

ORDER

MODIFICATION OF CODE OF FAIR COMPETITION FOR THE COTTON TEXTILE INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Trade Practices for the Cotton Thread Manufacturing Branch of the Cotton Textile Industry, and hearing having been duly held thereon and the annexed report on said Code containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise; do hereby incorporate by reference said annexed report and do find that said Code complies in all respects with the pertinent purposes of said Title of said Act, and do hereby order that said Code of Fair Trade Practices be and it is hereby approved, and that the previous approval of the Code of Fair Competition for the Cotton Textile Industry is hereby modified to include an approval of said Code in its entirety as modified; provided, however, that the provisions of Section 3 and Section 4 of said Code of Fair Practices in their entirety be and they are hereby stayed pending my further order.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

ROBERT L. HOUSTON,
Division Administrator.

WASHINGTON, D.C.,
July 17, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Trade Practices governing the merchandising of the products of the Cotton Thread Manufacturing Branch of the Cotton Textile Industry, conducted in Washington, D.C., on February 2, 1934.

In accordance with the customary procedure every person who filed a request for appearance was freely heard in public, and all statutory and regulatory requirements were complied with.

The Code which is attached was presented by the duly qualified and authorized representatives of the Industry, the Cotton Textile Industry Committee, which is the Code Authority for the Cotton Textile Industry.

FINDINGS

The Deputy Administrator in his final report to me on said Code having found as herein set forth and on the basis of all proceedings in this matter:

I find that:

(a) The Fair Trade Practices of the Cotton Thread Branch of the Cotton Textile Industry and the Cotton Textile Code as amended are well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act including the removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof, and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanction and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required) by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment by improving standards of labor, and by otherwise rehabilitating industry.

(b) The Cotton Textile Code as so amended complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7 and Subsection (b) of Section 10 thereof.

(c) The Cotton Textile Industry Committee is empowered to present the aforesaid Code of Fair Practices on behalf of the Industry as a whole.

(d) The Code of Fair Practices and the Cotton Textile Code as so amended are not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(e) The Code of Fair Practices and the Cotton Textile Code as so amended are not designed to and will not permit monopolies or monopolistic practices.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code.

For the above reasons this Code of Fair Practices has been approved by me.

Respectfully,

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

JULY 17, 1934.

AMENDMENT TO CODE OF FAIR COMPETITION FOR THE COTTON TEXTILE INDUSTRY

FAIR TRADE PRACTICES GOVERNING THE MERCHANDISING OF THE PRODUCTS OF THE COTTON THREAD MANUFACTURING BRANCH

1. *National Industrial Recovery Act.*—Each member of the Industry who is entitled to display the Blue Eagle of the National Recovery Administration shall affix to all invoices, in accordance with regulations of the Code Authority, a stamp stating that the mill where the goods were made is operating under the Cotton Textile Code, which regulations and stamp shall be subject to the approval of the Administrator.

2. *Definitions.*—The following definitions shall apply to this Code of Fair Trade Practices hereinafter set forth.

(a) The term "industry" means the cotton thread manufacturing branch of the Cotton Textile Industry, which is defined as the manufacture of sewing, crocheting, embroidery, and/or darning cotton thread.

(b) Whenever the term "thread" or "threads" is used, it shall refer to cotton thread, which is defined to include all products composed of one or more cotton yarns, single or braided or twisted together, and sold for use in any sewing, crocheting, embroidering, or darning operations, in the natural, white or colored state, with the exception of:

(1) Cotton articles usually defined in the trade as "twine", "sewing twine", "bag twine", "bag closing twine", "broom twine", and "tufting twine", which are made of carded yarns of a yarn count of 20s or coarser.

(2) Cotton looping and seaming yarns used in the hosiery trade. For the purposes of this Code of Fair Trade Practices certain cotton yarns, commonly and variously known as "schiffli", "schiffli yarn" and "embroidery yarns", as made and sold for use only on Schiffli and Swiss hand embroidery machines shall be considered as coming within the foregoing definition of thread.

(c) The term "manufacturers' threads" refers to those threads generally used in the manufacturing or industrial trades, and the term "household threads" refers to those threads generally used in the home or for domestic purposes.

(d) The term "Sub-Committee on Thread" shall mean the Sub-Committee on Thread of the Code Authority of the Cotton Textile Industry.

(e) Unless otherwise specified, all provisions of this Code of Fair Trade Practices shall apply both to manufacturers' or industrial threads and household or domestic threads.

3. *Publishing Prices and Terms of Sale.*—(a) Each member of the industry shall furnish to and file with The Thread Institute copies of price lists showing all current prices and quantity discounts to all classes of trade on branded goods. This information shall be kept up to date in the future by furnishing The Thread Institute with all changes in prices and quantity discounts on branded goods on the same day on which they go into effect. All such information filed with The Thread Institute shall be available to all members of the Industry.

(b) Each member of the Industry shall have the right individually to file new prices from time to time not inconsistent with the provisions of the Cotton Textile Code as amended or this Code of Fair Trade Practices.

(c) Members of the Industry shall report to the Cotton-Textile Institute every four weeks, the total of all sales of nonbranded goods made by them during said four weeks' period. The units in which such sales shall be reported, the detail of said reports, and the disposition of same, shall be as designated from time to time by the Sub-Committee on Thread.

(d) The Sub-Committee on Thread shall have power to establish rules and regulations for the orderly administration of the provisions of this Section 3. Such rules and regulations shall be subject to review by the Cotton Textile Industry Committee.

4. *Selling Below Cost.*—(a) The selling of goods by any member of the Industry below cost of production is an unfair trade practice except where the sale is made to meet bona fide competition.

(b) The provisions of paragraph 4 (a) shall not become effective until the definition of cost of production and a method of uniform cost accounting have been approved by the Administrator, and such further period thereafter, not less than three months, as may be fixed by the Sub-Committee on Thread with the approval of the Cotton Textile Industry Committee and of the Administrator.

(c) Nothing herein contained shall prevent the sale of damaged goods, job lots, and discontinued lines below cost of production, provided, such merchandise is clearly invoiced as such, and that a complete record thereof is kept by the seller, open to inspection by The Thread Institute or its authorized agents.

(d) The Thread Institute, through a disinterested agency appointed by its Board of Directors, is designated as an agency to gather all necessary information as to a method of uniform cost accounting. Such agency shall report the results of such investigation to the said Board in statistical form, and said Board is designated as an agency to determine the appropriate method for uniform cost accounting, and to recommend such method and a definition of cost of production through the Sub-Committee on Thread for the action of the Cotton Textile Industry Committee and recommendation to the Administrator. Such recommendation, after such notice and hearing as the Administrator may specify, shall become effective subject to the provisions of paragraph 4 (b) on approval by the Administrator or the President.

5. *Credit Terms*.—(a) Except either as otherwise provided in paragraph (b) of this section, or under emergency conditions¹ found to exist in any particular case, no more favorable credit terms shall be extended by any member of the Industry, in connection with any sale or transactions completed within the continental limits of the United States than the following:

Net 60 days.

2% 10 days E.O.M. (End of Month).

(b) The provisions of paragraph 5 (a) shall not apply to sales of thread for use on Schiffli and Swiss hand embroidery machines, on which sales no more favorable terms shall be extended than—

Net 60 days.

2% 30 days.

3% 10 days.

(c) No extra dating shall be allowed, except that goods shipped from the 25th to the end of the month may be regarded for discount purposes as having been shipped as of the 1st of the following month, and except also that an additional dating of thirty days on the invoice may be allowed for discount purposes on shipments from points east of the Mississippi River to points west of the longitude of Denver, Colorado.

(d) No shipment shall be made on consignment to any person, firm or corporation other than to a bona fide sales agent.

6. *Secret Rebates*.—(a) The payment or allowance of secret rebates, refunds, or unearned discounts, whether in the form of money or otherwise, resulting in discriminations between customers of the same class, is an unfair trade practice.

(b) Nothing in this paragraph shall preclude the payment of a reasonable commission to any jobber for bona fide services in distribution of goods.

7. *Mutuality of Contracts*.—(a) All contracts not for immediate delivery made by members of the Industry for the sale of their products shall be in writing for definite quantities, and duly executed by the respective parties thereto. Forms for such contracts shall be filed with The Thread Institute as soon as effective and shall be available to all members.

(b) All contracts for manufacturers' threads shall stipulate that the delivery specifications calling for the shipments against the contracts shall be distributed fairly and equitably throughout the term of said contract.

(c) All contracts should be performed according to their terms by all the parties thereto, in the absence of a legal or equitable excuse for nonperformance. The willful failure of a member of the Industry to enforce the same is an unfair trade practice. Nothing herein contained shall prevent the use of usual clauses in contracts as to the effect of force majeure, acts of God, and similar events beyond the control of either party.

(d) Predating an order or contract with the intent or effect of giving either buyer or seller any advantage or benefit which would not accrue if such order or contract were correctly dated, is an unfair trade practice.

¹ Any such emergency condition shall be reported at once to The Thread Institute together with the terms allowed to meet said emergency.

(e) "Make and hold" orders for manufacturers' threads shall only be accepted as contracts. Under such contracts the terms must provide that the buyer must accept delivery of the full quantity specified within the contract period.

(f) Wilfully inducing or attempting to induce the breach of any contract between a competitor and his customer or wilfully interfering with or obstructing the performance of the same is an unfair trade practice.

(g) Contracts for manufacturers' threads not for immediate delivery shall be for periods not to exceed three months.

8. *Samples*.—Whereas, the giving of free samples to customers for the purpose of obtaining business is not in itself a trade abuse, it is an unfair trade practice if samples are given as an integral part of a sale or as a means of making a specific sale.

9. *Advertising Allowance*.—No advertising allowance shall be offered or given to induce or consummate a sale. This paragraph shall not be construed so as to prevent proper expenditures or allowances for advertising or displays actually made or furnished.

10. *Group Buying*.—No member of the Industry shall accept orders or contracts from any person, firm, corporation, or association who has combined to pool orders or purchases of sewing threads for the purpose of obtaining the benefit of any discount or other concession allowed on the quantity purchased or agreed to be purchased unless the person, firm, corporation, or association in whose name the sale or contract shall be made actually establishes a sound financial basis for any credit involved and assumes sole financial responsibility. The failure of any member of the Industry to conform to the requirements of this paragraph shall be an unfair trade practice.

11. *False and Misleading Advertising*.—The making or causing or permitting to be made or published any false or deceptive statement by way of advertisement (whether printed, radio, display, or of any other nature) or otherwise concerning the grade, quality, quantity, substance, character, nature, origin, size, or preparation of any product of the Industry which is misleading or inaccurate in any material particular or which may mislead or deceive purchasers or prospective purchasers, or which may injuriously affect the business of competitors, is an unfair trade practice.

12. *Marking Thread*.—(a) No member of the Industry shall sell or offer for sale any thread, put up on spools, tubes, cones, bobbins, or in balls, skeins, or other similar packages, unless there is affixed to or impressed upon a conspicuous part of each such spool, tube, cone, bobbin, ball, skein, or other similar package of such thread a label or stamp which shall be plain and conspicuous, and which shall plainly indicate either its net weight in avoirdupois pounds and ounces or its length in yards; Provided, That when any such spool, tube, cone, bobbin, ball, skein, or other similar package of such thread containing a net weight of less than two avoirdupois ounces is sold or offered for sale, then such label or stamp shall indicate its length in yards; provided further, That where from the shape, size, or character of the spool, tube, cone, bobbin, ball, skein, or other similar package it is impossible so to affix or impress such label or stamp, a label or stamp shall be affixed to the box or other container in which such

packages are put up, stating the number of units contained therein and the net weight or yardage of each, as hereinbefore prescribed.

(b) It shall be an unfair trade practice if any member of the industry shall sell or offer for sale such thread on any such spool, tube, cone, bobbin, or in any such ball, skein or other similar package or box, without a label or stamp specifying the net weight or number of yards of thread contained thereon, as provided in the first paragraph of this section, or if any such member of the industry shall sell or offer for sale such thread on any such spool, tube, cone, bobbin, or in any such ball, skein, or other similar package or box, weighing or measuring more than five per centum less or more than the net weight or number of yards that the label or stamp thereon specifies.

Each member of the industry shall file with The Thread Institute a list of all brands and trade marks used on cotton threads produced by or for him for his own distribution and sale, and also shall keep The Thread Institute informed of all changes and additions.

It shall be an unfair trade practice if any member of the industry shall sell or offer for sale any thread which, in addition to being labeled or stamped with a statement of contents as provided in the first paragraph of this section, does not bear a firm name, brand, or trade mark by which it may be clearly identified by The Thread Institute.

The provisions of the foregoing paragraphs of this section shall not apply to thread sold for use on Schiffli and Swiss hand embroidery machines.

13. *Misbranding and Mislabeling.*—The false marking or false branding of products with the effect of misleading or deceiving purchasers with respect to the quantity, quality, grade, or substance of the products purchased is an unfair trade practice.

14. *False Invoicing.*—Withholding from or inserting in the invoice statements which make the invoice a false record wholly or in part, of the transaction represented on the face thereof, is an unfair trade practice.

15. *Commercial Bribery.*—No member of the Industry shall give, permit to be given, or directly offer to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent, or representative of another in relation to the business of the employers of such employee, the principal of such agent or the represented party. This provision shall not be construed to prohibit free and general distribution of articles commonly used for advertising except so far as such articles are actually used for commercial bribery as hereinabove defined.

16. *Substitution of Merchandise.*—(a) Shipping or delivering products which do not conform to the samples submitted, or representations made prior to securing an order and with the effect of deceiving or misleading the purchaser, is an unfair trade practice.

(b) The sale of an inferior quality of product in this industry at a price appropriate for such product, with the understanding that a product of superior quality selling at a higher price will be delivered, is an unfair trade practice. A seller acting in good faith

and because of an actual unforeseen shortage of the product sold, may, in order to service the customer, deliver a product of a quality superior to the product sold.

17. *Imitation of Trade Marks, etc.*—The imitation or simulation by a member of the Industry, of another's trade marks, trade names, slogans, and other marks of identification, including labels and the dress of the goods, so as to deceive purchasers or prospective purchasers, or result in commercial disadvantage to the owner of an already established put-up is an unfair trade practice.

18. *False Disparagement of Competitors.*—The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or other false representations, or the false disparagement of the grade or quality of their goods, is an unfair trade practice.

19. *Use of Competitor's Merchandise.*—No member of the industry shall by purchase or exchange acquire another manufacturer's merchandise from any customer or prospective customer for the purpose of substituting his own merchandise or influencing the sale of merchandise to such customer or prospective customer, Provided however, it shall not be an unfair trade practice to acquire a sample of a competitor's merchandise for the purpose of comparison or analysis.

20. *Aiding or Abetting Another in the Use of Unfair Trade Practices.*—The wilful aiding or abetting of another in the use of unfair trade practices is an unfair trade practice.

21. *Modification.*—(a) The Board of Directors of the Sub-Committee on Thread shall give consideration to any proposed change or changes in this Code of Fair Trade Practices which may be proposed to it either by any member or members of The Thread Institute having collectively not less than twenty-five votes therein, provided, however, that where such proposed change or changes would affect manufacturers supplying thread for use on Schiffli and Swiss hand embroidery machines, such change or changes may be proposed by any member or members of The Thread Institute whose principal business is supplying such thread, having collectively not less than five votes therein.

(b) The provisions of this Code of Fair Trade Practices shall govern all members of the Industry. Any provision of this Code of Fair Trade Practices may be revoked or modified by the Board of Directors or the Sub-Committee on Thread, subject to the approval of the Cotton Textile Industry Committee and the Administrator. This Code of Fair Trade Practices is subject to the right of the President, in accordance with subsection (b) of Section 10 of the National Industrial Recovery Act from time to time to cancel or modify any order, approval, rule, or regulation issued under said act.

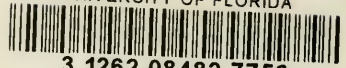
22. Nothing in this Code of Fair Trade Practices shall be deemed to constitute any of the members of the Industry partners for any purpose. No member shall be liable in any manner to anyone for any act of any member or agent of the Code Authority lawfully and properly performed pursuant to the provisions of this Code of Fair Trade Practices, nor shall any member or agent be liable

to anyone or in any manner other than as provided in the National Industrial Recovery Act or in the Cotton Textile Code or this Code of Fair Trade Practices for any act performed in accordance with, or for any failure to act required by, the provisions of said Code and Code of Fair Trade Practices.

Approved Code No. 1—Amendment No. 8.
Registry No. 299-25.



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